IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Srinivas Kaveri et al. Art Unit: 1652

Application No.: 10/031,938 Examiner: Meah. M

Filed: July 22, 2002 Attorney Dkt. No.: 71247-0085

For: CATALYTIC ANTI-FACTOR VIII ALLO-ANTIBODIES

RESPONSE TO NOTICE OF NON-COMPLIANT FILING

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 2, 2008

Sir:

In response to the Non-Compliant Notice of June 5, 2008, Applicants elect the Group I invention with traverse.

While it is not clear as to whether the response filed on February 29, 2008 was entered or not, the remarks made therein are reiterated here so that they are on the record as part of Applicants' traverse.

Applicants also wish to argue at the very least Groups 1 and IV should be examined together. The reason for this is that the restriction requirement of December 31, 2007, states on page 4, line 7:

> Group I and IV share a technical feature, a product (antifactor VIII allo-antibodies)

Based on this admission, it is not understood how the Examiner can allege that it was improper for Applicants to elect the inventions of Group I and IV. Even conceding

that the previous restriction requirement was in error as noted in the first and second paragraphs of page 2 of the December 31, 2007 restriction requirement and that Groups I-IV should not be grouped together, Groups I and IV should be examined together based on the Examiner's own observation.

The reliance on Saenko to support the restriction requirement is not believed to be persuasive for the reasons set out below.

Accordingly, reconsideration of the restriction requirement is requested so that at least Groups I and IV are examined together.

The following is a reiteration of the previous traverse of the restriction requirement. However, Applicants also traverse the restriction requirement on the grounds that all of the Groups I-IV share the same technical feature.

First, Applicants wish to incorporate by reference the response filed on July 12, 2004. In this response, two basic arguments were made. The first was that the International Searching Authority did not make a unity of invention objection to the claims in the International Application. As stated in MPEP 1893.03(d), the test for unity of invention in a national stage application must adhere to PCT Rule 13, not US application practice under 37 C.F.R. 1.141. Therefore, Applicants submit that it is error for the Examiner to diverge from the conclusion reached in the International Application and Rule 13 and reach a different conclusion regarding unity of invention.

A second reason is that a review of the two Groups of invention still reveals the single general inventive concept, i.e., the hitherto-unknown anti-Factor VIII allo-antibodies, which are capable of degrading Factor VIII in a mammal.

Turning now to the Group II and III invention, it is clear that the Group III invention, i.e., a method of neutralizing catalytic anti-Factor VIII allo-antibodies involves the hitherto-unknown anti-Factor VIII allo-antibodies. It is not understood how this method does not share the single inventive concept identified above. At the very least, Group III should be included for examination under the requirements of PCT Rule 13.

For Group II, the specification quite clearly links the sequences, claims 111-113, and the peptides, claims 115-117 and 141-143, to the single general inventive concept noted above, see pages 5-8 of the specification. Therefore, these claims are properly grouped with the claims of Groups I, III, and IV.

It is also noted that the Examiner cites the Saenko et al. article, noted as reference X and U-I in the office action originally mailed on September 15, 2004, to support the contention that a single general inventive concept is not present amongst the four Groups of claims. In the referenced office action, the Saenko et al. article was used to reject claims 151-154 (Group IV) under 35 U.S.C. § 102(b).

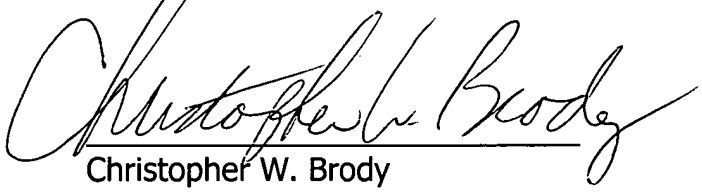
While this same stance is taken in this restriction requirement, Applicants argued that reliance on Saenko et al. to reject claims 151-154 was improper. The Examiner's attention is drawn to the response filed on July 29, 2005, and particularly to pages 18-20 of this response. Therein, the argument is made that Saenko et al. (reference X or U-1) teaches that the inhibition taught by Saenko et al. is the classical type, not the catalytic degradation associated with the invention. Therefore, it cannot be said that Saenko et al. teaches claims 151-154 or their detection. Lacking a basis to allege that claims 151-154 are known, the Examiner's restriction requirement and contention that a

single general inventive concept is improper. Thus, the restriction requirement should be withdrawn for this reason alone.

In light of the traverse set out above, Applicants respectfully request that the restriction requirement be withdrawn and all claims examined, or at the least, Groups I and IV be examined together.

Please charge any fee deficiency or credit any overpayment to Deposit Account No. 50-1088.

Respectfully submitted,
CLARK & BRODY



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